



<http://carlislema.gov>

TOWN OF CARLISLE

OFFICE OF Zoning Board of Appeals

66 Westford Street
Carlisle, MA 01741
978-369-5326

Minutes: Board of Appeals, February 1, 2007

The meeting was called to order at 8:05 p.m. in the Town Hall, 66 Westford Street. Board Members Ed Rolfe (Chair), Cindy Nock (Clerk), Manuel Crespo (associate member), board secretary Julie Levey, Building Inspector John Minty, applicants and interested parties were present.

Rolfe introduced the board members and gave a brief overview of the procedure. Crespo sat as a full board member for this meeting.

There were no meeting agenda changes, no public comment and no unfinished business.

Nock moved to accept the January 4, 2007 minutes. Crespo seconded. The Board voted unanimously (3-0) to accept the minutes.

Rolfe opened the hearing for **Case 0702, the application of Mark Barrow**, request for a variance under bylaw 6.4 for the construction of a barn and storage/work shed at 166 Fiske Street.

Rolfe requested clarification from Building Inspector John Minty on the town bylaw needed for the Barrow request. Minty asked that the project be explained.

Rolfe submitted a letter dated November 5, 2006 from him to Building Inspector Bob Koning which was a response to Barrow's request for bylaw clarification.

Mark Barrow, 166 Fiske Street, appeared before the Board requesting a variance for the removal and reconstruction of a non-conforming building on the property. There is a shed row barn on the property that is 96 feet long and 18 feet wide which had been used for chickens and horses but now is used for storage. About half of the building is within the 40 foot setback at the rear of the property. Barrow did not have the date of when the building was constructed but believed it pre-existed current building regulations. The building is in disrepair and not structurally sound. Bylaw 6.4 states that if a building or structure is non-conforming as to its setback, if damaged or destroyed may be restored and used as before. Barrow said the building had not been destroyed by accidental causes and he was unsure if the bylaw applied. Barrow would like to remove the structure and rebuild a similar structure on the same foundation which would be in the 40 foot setback.

Rolfe reported that a site visit had been made. The structure, at its closest point, is located 8 feet from the property line. The Board was confused as to Barrow's application which presented two options.

In response to Rolfe, Barrow said the property would have the slab foundation even if the structure were removed and he would like to reuse it. Barrow also said that the most compelling reason to re-use the site was due to wetlands on the property. Barrow said he was preparing a Notice of Intent to go before the

Conservation Commission. Some of the building falls within 50 feet of the wetlands and all of the structure is within 100 feet of the wetlands. Barrow said using the existing foundation would have the least environmental impact.

In response to Crespo, Barrow said some excavation would be necessary.

Minty said the structure was non-conforming and legally pre-existed the current regulations. Rolfe reported that he had had the property record pulled and the barn was on the property in 1922. Minty felt a detailed plan of the new structure would be necessary to make a decision. Minty also suggested having the foundation inspected by a structural engineer. Barrow said that the new structure would be a single story. Minty recommended Barrow receive a finding first from the Conservation Commission to determine the building's impact on the wetlands.

Minty informed the hearing that he could repair and maintain the current structure but would require a variance if he wished to tear it down and rebuild it. Current bylaw limitations provided that the building could only be rebuilt if destroyed by accidental means such as a fire.

There being no further discussion, the hearing was closed at 8:45 p.m.

Rolfe opened the hearing for **Case 0703, the application of Kevin Brown** request for a variance under bylaw 7.5 from zoning bylaws 4.3.2 for the construction of a carport at 133 Hutchins Road.

Signatures in support of Brown's structure were entered into the hearing. Rolfe reported that the Board had made a site visit in January.

Kevin Brown appeared before the Board asking for forgiveness as he had built the carport before acquiring the variance. Brown said he did not know it was necessary to acquire the variance because he thought that the carport was considered a temporary structure. Brown explained that he had chosen the placement of the structure because the back yard is inaccessible, ledge located along the edge of the property, the back yard has grade to it to conform to the grading easement of the septic systems. No other level spots are available. Other possible locations would require excavation and would likely disturb grading or require blasting. Brown said he also chose the spot because it is accessible through the front yard, its flat, and it's tucked behind an existing fence. The structure does not have a foundation and can be removed.

Rolfe noted that variances run with the land and if the Board granted the variance, it would likely place a condition on it stipulating that once the structure wears out it can only be replaced with a duplicate of the exact model.

The structure is 12.5 feet from an abutter's property line. Brown said that he had put up fencing as well as green bushes for screening.

In response to Nock, Minty said that although the bylaw was not clear regarding the description of a temporary structure, the 30-40 year sheet metal anchored car port is not considered to be a temporary structure.

A letter of enforcement issued to Brown by the Building Inspector was submitted. Minty said a building permit could be granted if the Board approved the variance. Brown would also have to file the variance at the Registry.

In response to Crespo, Brown said he did not know about the 40 foot setback bylaw. Brown said it was placed where it would have the least amount of impact on the neighbors.

Abutter Walter Brennan said that if the carport were moved it would be more intrusive. Brown said he had discussed the structure with his neighbor prior to constructing it. Brown said he did not intend to place doors on it.

There being no further discussion, the hearing closed at 9:10 p.m.

Rolfe opened the hearing for **Case 0704, the application of Peter Morey and Healthy Pet Corp d/b/a Carlisle Animal Hospital**: Request for a modification to a special permit under zoning bylaw 3.2.2.7 for the continued operation of a veterinary hospital at 998 Bedford Road.

Atty. John Farrington appeared before the Board representing Peter Morey.

A letter from abutter Susan Campagna, 964 Bedford Road was submitted in opposition to the special permit. The letter cited the following concerns/issues:

- 1- Peter Morey, owner of the property, was not present or running the animal hospital
- 2- Neighborhood nuisance
- 3- Business is an eyesore and should be screened
- 4- A site plan should be required
- 5- Title V compliance
- 6- Concerned that town protects business interests over residents

Farrington introduced Health Pet Corp. representatives: Melissa Sargent, Veterinarian, Rebecca Harrison, Operations Manager, Pat Muse, Practice Manager, and Cara Casamasima, Massachusetts Manager for Healthy Pets. Farrington reminded the Board that a modification to the special permit was granted last year. The period had been for one year. Farrington asked the Board to reissue the special permit but requested a longer time period. Farrington said the hospital would be remodeled this year but the company did not want to invest in the property without a longer term commitment.

Rolfe reported that the Board had made a site visit.

Addressing some of the abutter concerns, it was noted that there was no formal record of complaints were available regarding the animal hospital. Practice Manager, Pat Muse, said they had complied with all of the conditions of the special permit, specifically noting that they did not run a commercial kennel, rarely had an overnight animal, had plenty of parking at the facility, and no Sunday hours of operation. In response to Rolfe, Sargeant said that they had had no Sunday emergencies during the past year and had not conducted their charitable event. Sargeant also said that no business, deliveries or other activity takes place when the hospital is closed. Muse further reported compliance with the permit conditions reporting: a new fence had been installed for abutter protection from dogs on abutter property, cleanup after client walking of pets at the facility, continue to maintain a maximum 2 doctor practice with one doctor currently practicing. Muse said they would like to concentrate on renovating the facility, improve lighting and acquire more equipment for animal care.

Sargent said that they had not had a septic truck on the property but speculated that Doctor Morey may have and that he is currently working on the house located on the same property. Business deliveries include: UPS once a day 4 days a week and FedEx once a week. New road signage had been provided by the town and lights are not left on at night although there is a street light on Foss Way. Currently laboratory pickups are done by flashlight at 8:00 p.m. Hazardous material is picked up and disposed of as required. Controlled substances are stored in a hidden area under a double lock system. Muse asked for a 5 year extension on the permit.

Farrington said the one year had been given to see how Healthy Pet conducted itself in lieu of Peter Morey and he felt they had complied with all requirements.

Barrow, a client of the animal hospital said he had found the hospital to be a professional and well run facility and recommended continuing their special permit

Minty suggested that the permit be conditioned if Peter Morey sold the property, then Healthy Pet would be required to come back to the Board. After a brief discussion, the Board determined that if the owner changed, the operation is required to come back to the Board.

Minty said no complaints had been received. He said there had been some difficulty with the abutter in determining the fence type but that Minty had made the final determination. Minty felt that 5 years was too long a special permit extension.

Recommendations for the new light on the door included: 70 watts or less, shielded fixture, night friendly/full cut off fixture, with building code determining light density and a wiring permit was required; Minty would inspect fixture.

Farrington said that Dr. Morey does not intend to sell the property and asked that the original special permit not be changed. Minty felt that it would give the Board an opportunity to revisit the situation.

There being no further discussion, the hearing closed at 10:00 p.m.

The Board deliberated **Case 0702, Mark Barrow** request for a variance under bylaw 6.4 for the construction of a barn and storage/work shed at 166 Fiske Street.

Nock moved to deny without prejudice the request for a variance under bylaw 6.4 for the construction of a barn and storage/work shed at 166 Fiske Street.

The Board finds:

1. No plans had been submitted for the replacement structure.
2. Placing the structure 8 feet from the property line is a substantial derogation from the intent of the bylaw.
3. The applicant did not provide sufficient evidence for the requirements of the variance, specifically, due to the soil, shape or topography of the property.
4. The Board requested a determination from the Conservation Commission due to the wetlands on the property.
5. The Board felt there were other options available to the applicant.

Crespo seconded the motion. The Board voted unanimously (3-0) to deny without prejudice the request for a variance under bylaw 6.4 for the construction of a barn and storage/work shed at 166 Fiske Street. (Rolfe – aye, Nock – aye, Crespo – aye). Because the denial was without prejudice the applicant does not have to wait 2 years to resubmit the application.

The Board deliberated **Case 0703, the application of Kevin Brown** request for a variance under bylaw 7.5 from zoning bylaws 4.3.2 for the construction of a car port at 133 Hutchins Road.

The Board finds:

1. The board felt the shape of the lot required the granting of the variance.
2. There is hardship due to the shape of the lot which requires septic easements, has ledge and steep sloping topography in the front yard.

3. The abutter closest to the structure agrees that it is in best possible place.
4. Screening is in place.
5. The building is nonconforming because its side setback is less than the required 40'.
6. No letters in opposition from abutters had been received.

Nock motioned to grant a variance to Kevin Brown under bylaw 7.5 from zoning bylaws 4.3.2 for the side setback for construction of a carport at 133 Hutchins Road with the following conditions:

Conditions:

1. The structure must have the following specifications: Made by Carports Inc., 18' x 21' x 5', 2006 year of manufacture, white on both sides with a closed end, top is evergreen color.
2. The shelter may not be replaced without permission from the board
3. The proposed building shall conform to all other pertinent town and state laws, bylaws and regulations.

Crespo seconded the motion. The Board voted unanimously (3-0) to grant the variance. (Rolfe – aye, Nock – aye, Crespo – aye).

The Board deliberated **Case 0704, the application of Peter Morey and Healthy Pet Corp d/b/a Carlisle Animal Hospital**, request for a modification to a special permit under zoning bylaw 3.2.2.7 for the continued operation of a veterinary hospital at 998 Bedford Road.

Findings:

1. According to Town bylaws (Sec. 3.2.2.7) animal hospitals are appropriate uses in residential Zone B, by special permit. Further the premises are adaptable to the use, the animal hospital use is not contrary to the best interest of the town and it is not injurious to the character of the residence district.
2. The original special permit is in effect because Peter Morey is still the property owner.
3. The applicant has complied with all conditions during the past year.

Nock moved to grant the modification to the special permit under bylaw 3.2.2.7 for a period of 3 years with the same conditions as prior issuance and with the installation of a night sky type light to illuminate the walkway on a motion sensor with Building Inspector approval. Crespo seconded and the Board voted (3-0) to unanimously approve the modification to the special permit. (Rolfe – aye, Nock – aye, Crespo – aye)

Conditions:

1. This permit shall lapse if not exercised within one year from its granting, or the determination of an appeal.
2. The operation of the Carlisle Animal Hospital shall generally be in keeping with and sympathetic to its surrounding neighborhood and comply with the intent of Carlisle's Bylaws for uses permissible on special permit in Residential Districts.
3. The hospital use shall be located in the existing building being used at present for that purpose.
4. The operation of a commercial kennel is prohibited.
5. Sufficient off street parking shall be provided to take care of all motor vehicles without creating additional traffic hazards, and said parking areas shall be adequately screened. Brush or other vegetation shall be maintained as high as possible consistent with traffic safety.
6. Sunday operation shall be prohibited except in cases of emergencies, and twice annually for a clinic run for charitable purposes. The clinic may not open its doors for business prior to 10 a.m.; however, support personnel and early arrivals may be on the property somewhat earlier than 10:00 a.m.
7. Fencing will be maintained along the rear of the property.
8. Maintain the improved signage on property indicating appropriate exit and one-way direction.

9. Maximum equivalent of a two-doctor practice.
10. The installation of a night sky type light to illuminate the walkway on a motion sensor with Building Inspector approval.
11. The modification to the original special permit expires on March 1, 2010.
12. The original special permit shall expire on November 1, 2015.

The hearing was adjourned at 10:45 p.m.

Respectfully submitted,

Julie Connor Levey